

Referrals and Concurrence

GCC EN 08-001

This Explanatory Note details requirements for referrals and concurrences under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (the SEPP).

The Growth Centres will provide over 181,000 dwellings and land for employment over the next 30+ years. The SEPP establishes the planning framework for the North West and South West Growth Centres.

To guide planning outcomes, the SEPP introduces requirements for certain Development Applications (DAs) to be sent to the Growth Centres Commission or a land acquisition authority for comment or concurrence.

This Explanatory Note explains these referral and concurrence roles and clarifies the difference between the referral and concurrence requirements of the SEPP and application of the Special Infrastructure Contribution.

1. Referrals

1.1 *Precinct is not yet released*

If the Precinct is not yet released, there are no referral requirements under the SEPP. (Concurrence may be required in special circumstances - see Section 2 below). The list of released Precincts is on www.gcc.nsw.gov.au.

When assessing DAs in Precincts not released, the additional matters for consideration contained in Clauses 16 and 18 of the SEPP apply.

Depending on the type and location of the proposal, the provisions of Parts 3, 5 and 7 of the SEPP may also apply, and concurrence under Clause 14 of the SEPP may be required (see Section 2 of this Explanatory Note). The Special Infrastructure Contribution will apply (see Section 3 of this Explanatory Note).

1.2 *Precinct has been released but Precinct Planning is not finalised*

Clause 275 of the Environmental Planning and Assessment Regulations (EP&A Regulations) requires all DAs (but not single residential dwellings)

- where the capital investment value is more than \$500,000; or
- where the land has an area of more than 2 hectares; or

- for a subdivision to create 2 or more lots, to be accompanied by an assessment of the consistency of the proposed development with the relevant North West or South West Structure Plan. The Structure Plans can be found on www.gcc.nsw.gov.au.

Clause 17 of the SEPP requires these DAs to be referred to the Growth Centres Commission for comment. The assessment required under Clause 275 of the Regulations will be part of the DA package sent to the Commission.

The consent authority (generally the Council) must consider comments provided by the Commission. If Council does not receive comments from the Commission within 21 days, the DA can be determined in the absence of such comments.

The consent authority will continue to maintain its responsibility to complete the merit assessment of all DAs.

The additional matters for consideration contained in Part 4 of the SEPP apply.

Depending on the type and location of the proposal, the provisions of Parts 3, 5 and 7 of the SEPP may also apply and concurrence under clause 14 of the SEPP may be required (see Section 2 of this Explanatory Note).

When reviewing proposals referred under Clause 17 of the SEPP, the Commission will assess the proposal having regard to the Precinct Planning underway for that area and other relevant issues. The Special Infrastructure Contribution will apply (see Section 3 of this Explanatory Note).

1.3 *Precinct Planning is completed*

Referral under Clause 17 of the SEPP is no longer required. The consent authority will assess DAs under the new planning controls that apply to the Precinct.

Clause 275 of the EP&A Regulations ceases to apply.

Concurrence may continue to be required (see Section 2 of this Explanatory Note) and the Special Infrastructure Contribution will apply (see Section 3 of this Explanatory Note).

2. Concurrence

Clause 14 of the SEPP requires concurrence for development on land zoned Environment Conservation, Public Recreation – Regional or Public Recreation – Local under Part 3 of the SEPP if the development could have been carried out under a relevant planning instrument that applied to the land before the SEPP commenced.

The consent authority may grant consent if the development is:

- permissible in the planning instrument in force before commencement of the SEPP; and
- consistent with the aims of the SEPP.

Clause 15 of the SEPP identifies which authority is the acquisition authority for the purposes of concurrence.

Clause 14(2) of the SEPP states when deciding whether or not to grant concurrence, the public authority must consider:

- the need to carry out development on the land for the purposes for which the land is zoned under the SEPP;
- the imminence of acquisition of the land; and
- the likely additional cost to the public authority resulting from carrying out the proposed development.

In accordance with the Act and Regulation, concurrence can be granted with or without conditions, can be refused or additional information can be requested.

3. Special Infrastructure Contribution

The Special Infrastructure Contribution applies to all DAs as outlined in the Special Infrastructure Contribution Practice Note. The concurrence and referral processes established by the SEPP do not affect the application of the Contribution.

When the Special Infrastructure Contribution applies to a DA, the standard condition of consent is to be applied. A copy of this condition of consent can be found at www.gcc.nsw.gov.au.

4. General Considerations

The design and layout of future suburbs will be influenced by factors including existing landscape features, conservation and infrastructure - including roads.

Existing landscape features such as ridgelines will be encouraged to be retained until detailed planning for each Precinct is finalised, providing greater scope for subdivision layout and design.

Terms and abbreviations

- **Precinct release:** A Precinct released by Ministerial Declaration under Clause 276 EP&A Regulation.
- **The SEPP:** *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.
- **The Act:** *Environmental Planning and Assessment Act, 1979*.
- **EP&A Regulation:** Environmental Planning and Assessment Regulation.
- **Precinct not released:** the Precinct has not been released under Clause 276 EP&A Regulation.
- **Precinct released:** the Precinct has been released under Clause 276 EP&A Regulation.
- **Precinct Planning complete:** Precinct has been rezoned for urban development under the SEPP.
- **Structure Plan:** a map contained within the SEPP that identifies the general pattern of development for the growth centre.

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Important note

This Explanatory Note does not constitute legal advice. It does not provide a legal interpretation of the Growth Centres SEPP and should not be used in place of the SEPP. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this Explanatory Note.

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SUMMARY			
	Precinct not released	Precinct Released	Precinct Planning complete
Concurrence Clause 14	Applies	Applies	Applies
Referral Clause 17	Does not apply	Applies	Does not apply